

Department of Commerce and Insurance
Division of Fire Prevention

Statement of Necessity Requiring Emergency Rules

Pursuant to T.C.A §§ 4-5-208 and 68-102-113, I am promulgating emergency rules amending the building and fire codes and standards by which construction plans and specifications are reviewed by the Department of Commerce and Insurance's Division of Fire Prevention. The emergency rules are necessary to protect the safety of buildings, both public and private, that are currently under construction. Due to a procedural deficiency, rulemaking hearing rules setting forth a new standard were withdrawn on December 28, 2007. The withdrawal creates a safety hazard because the withdrawal of the rulemaking hearing rules, less than 60 days before their effective date, has created an uncertainty as to whether plans drawn in reliance on the withdrawn rules can be reviewed for statutory compliance under the pending codes by the Division of Fire Prevention. This uncertainty will interfere with the plans review and construction of both public and private buildings, resulting in costly delays for private citizens, as well as for the state and local governments. It is also possible that this uncertainty will result in a failure to submit plans for review and that buildings will not comply with any minimum standards, thus endangering the public.

I find that, given these findings, there is an emergency creating a danger to the public welfare such that the use of any other form of rulemaking authorized by the Administrative Procedures Act would not adequately protect the public. These emergency rules will allow the Division of Fire Prevention to review plans in accordance with the minimum standard relied upon due to the previously-pending rules until the rulemaking hearing rules can be promulgated and enforced. The minimum standards are required to insure the safety of buildings for public safety.

For copies of the entire text of the emergency rules, contact: Emmett H. Turner, Assistant Commissioner for the Division of Fire Prevention at 500 James Robertson Parkway, Davy Crockett Tower, 3rd Floor, Nashville, Tennessee 37243, telephone (615) 741-2981.

Leslie A. Newman
Commissioner and State Fire Marshal
Tennessee Department of Commerce and Insurance

Emergency Rules
of the
Department of Commerce and Insurance
Division of Fire Prevention

Chapter 0780-02-02
Codes and Standards

Amendments

Paragraph (1) of rule 0780-02-02-.01 Adoption by Reference is amended by adding the text of subparagraphs (c) and (d) so that, as amended, the paragraph shall read:

- (1) Unless otherwise provided by applicable law or the provisions of this chapter, the required minimum standards for fire prevention, fire protection and building construction safety in the State of Tennessee shall be those prescribed in the following publications:
 - (c) Except for Chapter 11 pertaining to accessibility standards, ICC International Building Code, 2006 edition, including ICC International Mechanical Code, 2006

edition, published by the International Code Council, Inc., 500 New Jersey Avenue Northwest, 6th Floor, Washington, D.C. 20001.

- (d) Uniform Fire Code (NFPA 1), 2006 edition, including each reference in NFPA 1, Chapter 2 (excluding NFPA 5000), published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471. Each reference in NFPA 1 Uniform Fire Code, Chapter 2 to an NFPA code or standard shall be deemed to be the edition printed in the National Fire Codes, 2006 edition.

Authority: T. C. A. §§68-120-101 and 68-102-113.

The emergency rules set out herein were properly filed in the Department of State on this the 25th day of January, 2008 , and will be effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the day of 8th day July, 2008. (01-09-08; DBID 2811)